

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE CITY OF NEW YORK,

Plaintiff,

-against-

Civil Action No. 19-cv-3998

CIGARETTES UNLIMITED, L.C., JOHN A. LASH, III,
ANITA LASH, STEPHEN DABNEY RILEY, SHANA L.
BILLER, MARY RILEY, MARGARET L. CLARK,
CANDICE S. FOX, MONIQUE PEARSON, JULIUS
PETERS-BRANDON, JOANNA S. PETTIES, PAULA K.
SLOAN, DERRICK L. WHITING, JESSICA
WHITEHEAD, ELIZABETH R. WINDHAM, DEBRA A.
ANTICO, JOSEPH N. ANTICO, THOMAS
GUGLIELMO, MERYLE MCGOWAN, ROBERT A.
SCHMIDT, RAZIK K. SHARKI, and John or Jane Doe 1-
30,

Defendants.

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DECLARATION OF JOHN S. CIELAKIE

John S. Cielakie declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is John S. Cielakie. I am a Detective with the Spotsylvania County (Virginia) Sheriff's Office ("SCSO"). I was assigned to the Street Crimes Unit during the cigarette trafficking investigation of Cigarettes Unlimited LLC ("Cigarettes Unlimited") and was the lead investigator. This declaration sets forth my present recollections, but does not necessarily contain all of the information in the possession of the SCSO pertinent to Cigarettes Unlimited and its owners and employees.

2. Attached hereto as Exhibit 1 is a true and correct copy of three pages recovered by SCSO deputies from a trash receptacle at Cigarettes Unlimited's Dale City location.

3. Attached hereto as Exhibit 2 are true and correct copies of three single page documents recovered by SCSO from a trash receptacle at Cigarettes Unlimited's Dale City location.

4. Attached hereto as Exhibit 3 is a true and correct transcript of part of an interview of John A. Lash, III conducted by me and SCSO Deputy Sheriff Ryan Plunkett on or about July 11, 2019.

5. Attached hereto as Exhibit 4 is a true and correct transcript of part of an interview of Stephen D. Reilly conducted by SCSO Deputy Sheriffs Kevin Walsh and Butch Allison, on or about July 11, 2019.

6. Attached hereto as Exhibit 5 is a true and correct transcript of part of an interview of Julius Peters-Brandon conducted by SCSO Deputy Sheriff Dillon Tittle on or about July 11, 2019.

Cigarettes Unlimited

7. In March 2019, the SCSO was contacted by the Cigarette Inspector's Office of the Virginia Attorney General and informed that a Virginia business identified as Cigarettes Unlimited was suspected of conducting illegal cigarette sales. Cigarettes Unlimited has three retail business locations, 5079 Jefferson Davis Highway, Fredericksburg, VA 22408, 712 Warrenton Road, Fredericksburg, VA 22406, and 4315 Dale Boulevard (A), Woodbridge, VA 22193. Cigarettes Unlimited is jointly owned by John Lash III and Stephen D. Riley.

8. The Virginia Attorney General's office provided the SCSO with documents indicating Cigarettes Unlimited was making large cash deposits at the Virginia Community Bank, 10645 Courthouse Road, Fredericksburg, VA 22407, in amounts inconsistent with the

expected sales volume at Cigarettes Unlimited's retail locations. During the 8-month period reported on by the Virginia Attorney General, Cigarettes Unlimited deposited approximately \$10.1 million into the Virginia Community Bank, in monthly cash deposits between \$600,000 and \$1 million.

Cigarette Trafficking From Cigarettes Unlimited

9. SCSO deputies commenced surveillance on Cigarettes Unlimited to determine the reason for the discrepancy between Cigarettes Unlimited's cash deposits and the sales volume anticipated at the company's stores. Observations by me and other SCSO deputies at each of Cigarettes Unlimited's three stores indicated that the amount of Cigarettes Unlimited's cash deposits was inconsistent with the retail traffic observed at the stores.

10. SCSO deputies observed employees of Cigarettes Unlimited transporting from the stores to waiting vehicles master cases and half-cases¹ believed to contain cigarettes, wrapped in black plastic garbage bags. The vehicles loaded by Cigarettes Unlimited employees were usually parked by a side door, positioned to avoid observation of the loading, and often during early morning hours before the stores opened to the public. The vehicles loaded by Cigarettes Unlimited employees usually displayed New York State license plates.

11. Several of the vehicles loaded by Cigarettes Unlimited employees were driven by repeat customers, who patronized Cigarettes Unlimited on a weekly or twice-weekly basis, sufficiently frequent for the drivers to be individually identifiable by SCSO deputies.

12. SCSO deputies identified Julius Brandon-Peters as the manager of the Dale City Cigarettes Unlimited location. Brandon-Peters was observed on numerous occasions, described below, loading what were believed to be cases or half cases of cigarettes contained in black

¹ I know from my experience and training that a master case of cigarettes contains 60 cartons of cigarettes and a half-case contains 30 cartons.

plastic bags into vehicles parked adjacent to the Dale City store. As also described below, individuals who have admitted transporting cigarettes from Cigarette Unlimited to New York City have stated that when phoning in their cigarette orders they most frequently spoke with “Julius” at the Dale City location, whom they identified as the manager of the store. They also stated that they placed orders with “Paula,” believed to be Paula Sloan, whom they identified as the assistant manager of the Dale City store,

13. On several occasions SCSO deputies followed vehicles that had been observed being loaded with probable cases of cigarettes at Cigarettes Unlimited. Vehicles were observed continuously driving north into New York City, where the vehicle contents were unloaded into residences by the persons who had made the purchases at Cigarettes Unlimited.

14. For example, on April 4, 2019, SCSO deputies commenced surveillance of the Dale City Cigarettes Unlimited store. At 1:55 p.m., the officers observed a black Mercedes sedan with New York plates 287INTA, driven by a male later identified through the vehicle registration as Ravi K. Sharki, of Staten Island, New York. The vehicle backed into a parking spot at the side door of Cigarettes Unlimited. After apparently waiting for the completion of a delivery into the store by Cigarettes Limited’s wholesale cigarette supplier, the individual entered the store at 3:28 p.m. through the front door. At 3:56 p.m., he exited the store’s side door with the store manager, Julius Peters-Brandon, not far behind him. The individual and Peters-Brandon loaded 6 black garbage bags into the trunk of the Mercedes. At 4 p.m., the Mercedes left the store and drove at a high rate of speed, executing what appeared to be evasive maneuvers, and entered I-95 northbound. The Mercedes continued on I-95 and was observed entering Maryland at 5:20 p.m. before surveillance was terminated.

15. On May 1, 2019, SCSO commenced surveillance of Cigarettes Unlimited's Dale City location at approximately 9:00 a.m. At 11:30, a black Toyota Highlander with New York license HSD6092, identified as registered to Meryle McGowan of Brooklyn, New York, backed into a spot at the front door of Cigarettes Unlimited. A white female subsequently identified as Meryle McGowan of Brooklyn, New York entered Cigarettes Unlimited through the front door. Store manager Julius Peters-Brandon and McGowan were observed loading approximately 25 black plastic garbage bags, estimated as containing from 600-750 cartons of cigarettes, into McGowan's vehicle. After leaving Cigarettes Unlimited, McGowan entered a Walmart and a Dollar Store and purchased items that were placed on top of the load of cigarettes. At 1:20 p.m., McGowan was seen to enter I-95 northbound. McGowan was thereafter observed continuously by SCSO deputies until she arrived at her residence at 276 Marlborough Rd, Brooklyn, New York at 6 p.m.

16. Also on May 1, 2019, at 11:40 a.m., a white Ford Transit van with NY plates HAY8217 arrived at Cigarettes Unlimited Dale City location and backed up to the side door. A white male, subsequently identified as Robert Schmidt of Staten Island, New York, exited the vehicle and entered Cigarettes Unlimited through the front door. While following the vehicle operated by Meryl McGowan on May 1st, I noticed a white Ford Transit van with NY tags HAY8217 at approximately at 4:40 p.m., on the New Jersey Turnpike, driven by the same white male that I had seen at Cigarettes Unlimited.

17. On May 6, 2019, SCSO officers commenced surveillance on Cigarettes Unlimited Dale City location at approximately 8:00 a.m. Two vehicles with New York license plates were already present at the store, as was store manager Julius Peters-Brandon. A white Toyota sedan bearing New York handicap registration 635969 was parked on the side of the store. At 8:45

a.m., the older white male driver of the vehicle loaded two cases of what were believed to be cigarettes into the vehicle and left. On June 11, 2019, at approximately 7:00 a.m., the same vehicle, bearing the same handicap registration number, was observed in the parking lot adjacent to Cigarettes Unlimited being loaded with multiple half cases of probable cigarettes.

18. The second vehicle present on May 6, 2019 was a black Dodge Caravan, subsequently determined to have been rented, driven by a white female in her 60's and a white male in his 40's, subsequently identified respectively as Debra Antico and her son Joseph Antico. The vehicle was backed into a spot at the front door of Cigarettes Unlimited. SCSO deputies observed Joseph Antico and an older white male clerk load what appeared to be six half-cases and a few single cartons of cigarettes into the van. Debra and Joseph Antico left Cigarettes Unlimited at 9:13 a.m. and were continuously observed by SCSO deputies until the Anticos arrived at 69 Stepney St., Staten Island, New York.

19. On May 22, 2019, Debra and Joseph Antico were observed by SCSO deputies arriving at about 6 a.m. at the Dale City Cigarettes Unlimited store, driving the same black Dodge Caravan observed on May 6, 2019. Store manager Julius Peters-Branden was present and Debra and Joseph Antico entered the front door. After observing the departure of police vehicles that had been responding to a nearby vehicle accident, Joseph Antico began to load black garbage bags containing half-cases of probable cigarettes into the van, through the open rear hatch.

20. The Anticos left Cigarettes Unlimited at approximately 8:55 a.m. and entered I-95 northbound. The Antico's vehicle was continuously followed until it arrived at 69 Erika Loop, Staten Island, New York at 1:52 p.m., where Joseph Antico and a white male were seen unloading cigarettes into a garage adjacent to the Erika Loop residence.

21. The Anticos were followed to 69 Stepney St., Staten Island, where Debra and Joseph Antico were arrested by members of the New York City Sheriff's Office. Approximately 120 cartons of cigarettes contained in black plastic garbage bags were recovered from the vehicle. Debra Antico stated in sum and substance that she purchases Virginia-stamped cigarettes from Cigarettes Unlimited which she then transports back to New York City for resale to family and friends, but not to stores.

22. Debra Antico further stated she calls the Cigarettes Unlimited Dale City location on Wednesdays or Fridays to place cigarette orders to be picked-up the following week. The calls are always made to "Julius" or "Paula."

23. Debra Antico stated that the owner of Cigarettes Unlimited is John Lash III, that Antico has met him, and that Lash knows the cigarettes are being transported to New York City for re-sale.

24. Debra Antico advised the arresting officers that most of the load that she had purchased that day had just been dropped off at the Ericka Loop address. Members of the SCSO and the New York City Sheriff's office returned to that location. After speaking with the owner of the garage at 69 Ericka Loop, who identified himself as Thomas Guglielmo, SCSO and New York City Sheriff's deputies, with Mr. Guglielmo's consent, entered the garage and recovered 341 cartons of Virginia-stamped cigarettes. Several boxes of black garbage bags were observed in the garage, and the garage appeared to have been set up as a small shop, with black grocery bags also hanging on the wall. At that time, Mr. Guglielmo stated that Debra Antico brought him cigarettes every week and paid him to store them there.

25. A final surveillance was conducted by SCSO deputies at the Dale City Cigarettes Unlimited store beginning at approximately 6:00 a.m. on June 11, 2019. At 12:30 p.m., a dark

gray Ford Transit 250 van, previously seen at Cigarettes Unlimited was observed to arrive at the store. The van was identified as registered to Robert Schmidt of Staten Island, New York, who had been observed at the store on May 1, 2019. Schmidt entered the store with the same black tote bag he had been seen to bring into the Cigarettes Unlimited store previously. The bag appeared to be full. At approximately 1:45 p.m., Schmidt exited the side door of Cigarettes Unlimited with a cart containing half-cases of probable cigarettes wrapped in black plastic garbage bags and the now-empty black tote bag. Additional carts loaded with plastic bags of cigarettes were brought out of the store. A total of approximately 45 cases of probable cigarettes were loaded into Schmidt's vehicle.

26. Schmidt departed Cigarettes Unlimited at approximately at 2:10 p.m. and drove directly to I-95 northbound, arriving at the Maryland border at 3:00 p.m. Continuous surveillance was maintained on Schmidt until he entered Staten Island, where he was stopped by the New York City Sheriff at the request of the SCSO. Schmidt's vehicle was searched and found to contain approximately 1200 cartons of cigarettes. Schmidt was arrested.

27. Following his arrest, Schmidt stated in sum and substance that he purchases Virginia-stamped cigarettes from Cigarettes Unlimited and transports them back to New York City for resale. Schmidt stated that the owner of Cigarettes Unlimited is John Lash, that Schmidt has met him, and that Lash has knowledge of where the cigarettes are being transported and re-sold.

Documents Recovered from Cigarettes Unlimited

28. SCSO conducted trash recoveries from dumpsters behind each Cigarettes Unlimited location. One document consisted of a two-page, undated memorandum, attached to this declaration as Exhibit 1. The memorandum is addressed to "Julius" from an unidentified

author and reports the arrest of “Rob”: “Rob was arrested Tuesday night after being here. Mary said “they” followed him and got him up north.” The memorandum further states that “Rob wanted Mom to ask John if he knew anything about Virginia State troopers following people back to New York because that is what Debbie is claiming happened.” “Then Mary said ‘They followed Rob.’” “John thinks that’s bullshit and Debbie probably turned Rob in.”

29. Exhibit 1 further states that John called back “after thinking about it further,” and said “we need to cool it down a bit” and to not have any buyers for the next two weeks, and cancel any existing orders. The writer then refers to cancelling the orders “I put in today,” and cancelling orders from “Mary,” “Joe,” “Meryl” and “Lee.” I third page contains notes that appear to have been written down in preparation for writing the memorandum, and include the notation “NO Buyers this week”

30. SCSO deputies also recovered numerous documents that appeared to be order forms listing cigarette brands, carton amounts and prices. The forms contain apparent orders for “Rob,” “Meryle,” and “Debbie.” *See* Exhibit 2 attached to this declaration.

31. On or about July 11, 2019, the SCSO executed search warrants at various locations connected with Cigarettes Unlimited, including the home of John Lash III. Along with Deputy Sheriff Ryan Plunkett, I interviewed Mr. Lash that day, who provided, among other statements, the following:

Cielakie: Well, John, well, basically, what I'm going to do is we're, we're gonna talk a little bit and you just kind of explain to me like this bulk stuff, how long has this been going on?

Lash: Oh, I don't know, 18 years, maybe a little longer.

Cielakie: Has it been the same guys, Rob and all them or?

Lash: No, they come and go, you know.

* * *

Cielakie: Do you know why people come to Virginia to buy cigarettes and take them to New York?

Lash: Yeah, the cost.

Cielakie: Yeah, and do you know what, what, what the cost difference is? Do you know why it is that way?

Lash: Probably \$60, \$70.

Cielakie: ... Yeah, it's very expensive. But do you know why, like is it, you know, state tax? ... State taxes is what, what causes it to be that high and unfortunately that's ridiculous but in New York, their taxes are absolutely crazy.

Lash: Yeah, I know.

* * *

32. Deputy Sheriff Ryan Plunkett presented Lash with the names of bulk buyers who had been identified as purchasing from Cigarettes Unlimited. Although Lash denied recognizing their names, he did admit to knowing that bulk buyers transported cigarettes purchased at Cigarettes Unlimited to New York and other northern states:

Plunkett: Doesn't -- I mean all, all these [bulk buyers] are from New York.

Lash: Yeah, I knew a lot of them are from New York or [unclear]

Plunkett: Did you know that they were going to be bringing their, their bulk orders back to New York?

Lash: Yeah, I knew they were from.... I knew that's where they were taking it. Yeah.

Plunkett: Okay.

Cielakie: Alright.

Lash: I mean where, where else would they take cigarettes up north? I don't know if New York or Ma-- I think

one of them's from Massachusetts or Connecticut or something.

* * *

Plunkett: ... [H]ow long you been selling cigarettes to Meryle [McGowan]?

Lash: God, I don't know. Probably --

Plunkett: Has she been coming for a while?

Lash: Probably five/six years.

Plunkett: Okay.

John: It could be longer. Like I say I -- at least five or six years, maybe more.

Plunkett: How did it start?

Lash: God, I don't know.

Plunkett: Okay.

Lash: Just walked in probably and said, can -- I want -- can I buy cigarettes.

Plunkett: Okay. Is that the same with Rob [Schmidt]?

Lash: Most of them, yeah.

Plunkett: Just walked, walked in --

Lash: Yeah.

Plunkett: -- and said, hey, I just want to do a bulk order --

Lash: Yeah.

Plunkett: -- instead of doing like, you know, four or five cartons or something?

Lash: Yeah. Yeah.

* * *

33. John Lash told me during his interview that he had been partners with Stephen Riley for twenty-five (25) years. When I asked John “you guys are like brothers, huh? he said “Yeah, almost, yeah.”

34. On July 11, 2019 SCSO Deputy Sheriffs Kevin Walsh, and Butch Allison interviewed defendant Stephen Riley, who provided, among other statements, the following:

Walsh: Back to the New York thing – you knew people were coming down just to buy?

Riley: Did I know for sure? No. Did I assume? Yeah.

Walsh: So how long did you assume for?

Riley: God, I don’t know

Walsh: Been a while?

Riley: Yes.

* * *

Walsh: You said something about or kind of alluded to “Well I didn’t know it was wrong, but you know I kind of figured people were coming down from New York.” How did you know that?

Riley: I mean where else are they gonna deal with it?

* * *

Allison: Certainly when you started this business 22 years ago business was not as good as it is now and its picked up through the years, hasn’t it?

Riley: I think as the northern states have put the unbelievable taxes on cigarettes, I mean they create the problem.

Walsh: Yeah, so they’re only helping business?

Riley: Yeah

* * *

35. Also on July 11, 2019, SCSO Deputy Sheriff Dillon Tittle interviewed defendant Julian Peters-Brandon, who, asked whether he puts black plastic bags on cigarettes responded, “I mean, for buyers from out-of-state.”

36. Peters-Brandon also stated:

“I didn’t know me selling to out-of-towners was illegal.”

“I knew it was illegal for them to cross state lines, I didn’t know it was illegal for me to sell it to them. My boss told me, these people are coming, ring them up.”

Dated: November 6, 2019
Spotsylvania, Virginia

s/

JOHN S. CIELAKIE
Detective, Spotsylvania County Sheriff’s Office